

**October 7, 2014, 7:00 p.m.**

City Council Chambers, 333 Civic Center Plaza

Web Site: [www.ci.tracy.ca.us](http://www.ci.tracy.ca.us)

Mayor Ives called the meeting to order at 7:00 p.m., and led the Pledge of Allegiance

The invocation was provided by Pastor Kevin James, New Creation Bible Fellowship, offered the invocation.

Roll call found Council Members Manne, Rickman, Young, Mayor Pro Tem Maciel and Mayor Ives present.

Troy Brown, City Manager, presented the Employee of the Month award for October 2014, to Linda Bower, City Manager's Office

Mayor Ives presented a Certificate of Appointment to new Transportation Advisory Commissioner William Helpley.

Mayor Ives and Police Chief Hampton swore in Police Officers James Ahlberg, Trevor Parry, Fabiola Hernandez, Jake Comber, and Raymundo Reynoso.

Mayor Ives presented a proclamation to Fire Division Chief Steve Hanlon, in recognition of Fire Prevention Week.

Mayor Ives presented a proclamation to Brian Pekari, Director - Tracy United to Make a Difference, in recognition of Make a Difference Day.

Mayor Ives presented a proclamation to Julie Yang, Shelter Director, in recognition of Domestic Violence Awareness Month – Women's Center.

Mayor Ives presented a Certificate of Recognition to Scott Claar for his outstanding efforts in assisting with the establishment of Serenity House, a shelter for battered women and their children in the Tracy Community.

1. CONSENT CALENDAR – Following the removal of Item 1.D by George Riddle, it was moved by Mayor Pro Tem Maciel and seconded by Council Member Rickman to adopt the Consent Calendar. Roll call vote found all in favor; passed and so ordered.
  - A. Approval of Minutes – Special meeting minutes and regular meeting minutes of September 2, 2014, were approved.
  - B. The Regular City Council Meeting Scheduled for Tuesday, November 4, 2014, be Rescheduled for Wednesday, November 5, 2014, Due to the General Municipal Election – Resolution 2014-165 rescheduled the November 4, 2014, regular Council meeting to November 5, 2014.

- C. Accept Travel Report from City Manager Regarding Attendance at League of California Cities (LOCC) Annual Conference and International City/County Management Association (ICMA) Annual Conference – Report accepted
- E. Approve a Memorandum of Understanding (MOU) With the Tracy City Center Association for Purchase and Resale of Alcohol and Other Food and Beverages on Authorized City Streets During City Authorized Events and Authorize the Mayor to Execute the MOU – Resolution 2014-166 approved the Memorandum of Understanding with the Tracy City Center Association.
- F. Authorization to Enter Into an Agreement With the County of San Joaquin for the Maintenance of Roadway Improvements and Landscaping Related to the New Interchange at I-205 and Eleventh Street – Resolution 2014-167 authorized entering into an Agreement with the County of San Joaquin.
- G. Approve the Reallocation of \$100,535 in Unspent Fiscal Year (FY) 2013-2014 Community Development Block Grant (CDBG) Funds to Two FY 2014-2015 CDBG Approved Projects – Resolution 2014-168 approved the reallocation of unspent FY 2013/14 CDBG funds to two FY 2014/15 CDBG approved projects.
- H. Approve Amendment Four to the Professional Services Agreement (PSA) With Drake Haglan and Associates of Sacramento, California, for Additional Design Services for the Eleventh Street – East Tracy Overhead Bridge, Number 29c-0126 – CIP 73063, Federal Project Number BHLS-5192(020), and Authorize the City Manager to Execute the Amendment – Resolution 2014-169 approved Amendment Four to the Professional Services Agreement with Drake Haglan and Associates.
- I. Approve a Maintenance Agreement With R & M Painting, Inc., DBA Gold Star of Turlock, CA, for Maintenance and Repairs of the Existing Clarifier at the City's John Jones Water Treatment Plant and Authorize an Appropriation of \$172,000 from the Water Enterprise Fund F513 – Resolution 2014-170 approved a Maintenance Agreement with R & M Painting, Inc. dba Gold Star.
- D. Approve an Exclusive Negotiating Rights Agreement With Kasson Manteca Solar, LLC, for a Potential Long-Term Lease of City-Owned Properties Located at New Jerusalem Airport, and Authorize the Mayor to Sign the Agreement – Ed Lovell, Management Analyst, provided the staff report. The City owns approximately 395 acres of property located on East Durham Ferry Road, known as New Jerusalem Airport. Approximately 320 acres of the property has been leased since 2001 for agricultural crop production. The lease agreement is set to expire on December 31, 2014. The City desires to continue with the leasing of the available acreage at New Jerusalem Airport as a source of revenue for the Airport Fund.

Kasson Manteca Solar, LLC. expressed its desire to use the available land for the development of a solar project and is in the final stages of securing a Power Purchase Agreement with Pacific Gas and Electric (PG&E). Staff believed entering into an Exclusive Negotiation Rights Agreement with Kasson Manteca

Solar, LLC would assist in exploring the potential for entering into a long-term lease of the subject property.

The Exclusive Negotiating Rights Agreement would provide parameters for a six month negotiating period. During that time, a Lease Agreement would be prepared for Council consideration. The agreement contains a provision for a four month extension period should the parties need additional time to complete negotiations.

The City currently has a lease with J. Lombardi Farms which generated \$54,208 in Fiscal Year 2013/2014 for the Airport Fund. The current lease expires December 31, 2014. Kasson Manteca Solar has requested an Exclusive Negotiating Rights Agreement with the City to negotiate the terms of a new lease. Upon execution of this Agreement, Kasson Manteca Solar will pay the City a consideration of \$10,000 to go towards costs for this Exclusive Negotiating Rights Agreement. This money will go to the Airport Fund.

Staff recommended that Council approve an Exclusive Negotiating Rights Agreement with Kasson Manteca Solar, LLC, and authorize the Mayor to sign the Agreement.

George Riddle asked if J. Lombardi Farms was no longer interested in renewing their lease. Mr. Lovell responded J. Lombardi Farms submitted a letter with their final lease payment stating at the end of the year they would no longer be farming.

Mr. Riddle asked if there were any other farmers interested in farming the land. Mr. Lovell responded the last time the City had advertised a Request for Proposal for the land, only J. Lombardi Farms responded.

Mr. Riddle requested that all the improvements to the property be addressed in the California Environmental Quality Act (CEQA) report to include strict adherence to the Airport Land Use Commission (ALUC) recommendations for this airport and other airports in the immediate area, and that the land use changes do not impose a hazard to navigation to any airports.

It was moved by Mayor Pro Tem Maciel and seconded by Council Member Rickman to adopt Resolution 2014-171 approving an Exclusive Negotiating Rights Agreement with Kasson Manteca Solar, LLC. for potential long-term lease of the City-owned properties at New Jerusalem Airport, and authorizing the Mayor to sign the agreement. Voice vote found all in favor; passed and so ordered.

2. ITEMS FROM THE AUDIENCE - None
3. PUBLIC HEARING TO CONSIDER A PROPOSAL TO AMEND THE I-205 CORRIDOR SPECIFIC PLAN DESIGNATION FROM GENERAL COMMERCIAL TO HIGH DENSITY RESIDENTIAL (APPLICATION NUMBER SPA14-0001), APPROVE A PLANNED UNIT DEVELOPMENT (PUD) PRELIMINARY AND FINAL DEVELOPMENT PLAN (APPLICATION NUMBER D14-0011) FOR A 441-UNIT MULTI-FAMILY APARTMENT PROJECT, APPROVE AN OFF-STREET PARKING

SPACE REDUCTION FOR THE APARTMENT PROJECT, AND APPROVE AN ADDENDUM TO THE FILIOS/DOBLER ANNEXATION AND DEVELOPMENT PROJECT ENVIRONMENTAL IMPACT REPORT (SCH NO. 2010072043). THE APPROXIMATELY 22.22-ACRE SUBJECT PROPERTY PROPOSED FOR SPECIFIC PLAN AMENDMENT IS LOCATED ON THE SOUTH SIDE OF GRANT LINE ROAD, NORTH OF THE UNION PACIFIC RAILROAD TRACKS, EAST OF BYRON ROAD AND APPROXIMATELY 600 FEET WEST OF LAMMERS ROAD, (ASSESSOR'S PARCEL NUMBERS 209-270-10, 11, 30, AND 31). THE PUD PRELIMINARY AND FINAL DEVELOPMENT PLAN IS PROPOSED FOR APPROXIMATELY 20.04 ACRES ON THE EAST SIDE OF THE SITE, ASSESSOR'S PARCEL NUMBERS 209-270-30 AND 31. THE APPLICANT IS DENTON KELLEY, SR95 VENTURES, LLC. – Alan Bell, Senior Planner, provided the staff report. The proposal is to construct a 441-unit, multi-family residential project on approximately 20 acres. The existing single-family home and related structures on the site will be removed as part of the project.

The project proposes a two-phase development, with roughly the eastern half of the Project (10.5 acres and 231 apartment units) developed in Phase I, and the western portion of the project (9.6 acres and 210 apartment units) developed in Phase II. An alternative phasing plan may be considered as the Project is developed. The average residential density of the Project is 22 dwelling units per acre, consistent with the General Plan and I-205 Corridor Specific Plan policies.

The two building types proposed for the apartments are both 3 stories and 45-feet 3-inches in height above the finished floor grade. There will be a mix in unit types in the project, with a total of 171 one-bedroom units, 252 two-bedroom units, and 18 three-bedroom units.

The design of the apartment buildings is modern. The buildings will utilize a neutral, earth-tone palette with colors of grey, brown and white trim. Construction materials will consist of cementitious board and batten siding, and lap siding, along with use of exterior plaster, wood eaves, steel awnings and guardrails, and composition asphalt shingle roofs. The apartments will be set back a minimum of 15 feet, 3 inches from the front property line along Grant Line Road.

A central clubhouse with swimming pool, seating areas and playground will be provided within each of the two phases of development, and available for use by all project residents. The clubhouses will be approximately 28-feet high, and each will contain a fitness room, mail room, lounge, conference room, restrooms, small dining room, and office space. Restroom buildings will be located by the swimming pools, also containing space for pool and maintenance equipment. Tot lots will also be provided in each phase.

A total of 796 parking spaces will be provided, equaling 1.8 spaces per apartment unit. The majority of these spaces will be in carports, ensuring at least one covered parking space per apartment unit. The number of parking spaces would be less than required by the Municipal Code, and the applicant has requested an adjustment to the City's parking requirements. There will also be 88 guest parking spaces (one space per each five apartment units). Additionally, there will be 102 garage units. The garages will be located in a series of buildings, approximately 17-feet high, along the southern project boundary, providing a partial noise and visual buffer from the adjoining Union Pacific Railroad line.

The garage building design and use of construction materials will be consistent with the primary apartment buildings.

Trash enclosures and enclosed trash compactor areas will be located at several areas in the parking lots, within walking distance of each apartment unit. Landscaping will include use of a combination of trees (including Chinese elm, valley oak and red oak, Whitehouse pear and fruitless olive trees), and extensive shrub and groundcover. A combination of project perimeter fencing and walls is proposed, using six-foot tall concrete masonry walls and ornamental metal fencing.

The project is proposed to be gated. Access to the property would come from a central, signalized driveway connecting to Grant Line Road. At build-out, three additional driveways would also provide access to Grant Line Road: two would have restricted (right-in, right-out) turn movements, and the third will also allow left-in turn movements. A series of interior driveways will provide access to on-site parking areas. The project would connect to City water, wastewater and storm drainage systems.

The subject property was annexed to the City in 2011 as part of the 43-acre, Filios/Dobler annexation. It was added to the I-205 Corridor Specific Plan and designated General Commercial. No specific improvements or development applications were proposed to the City at the time, or since.

The application proposes the amendment of the I-205 Corridor Specific Plan land use designation from General Commercial to High Density Residential. The proposed land use designation would be consistent with the overall land use program prescribed by the Specific Plan. High Density Residential uses would support existing and planned commercial and mixed uses in the area, and would be fully supported by necessary infrastructure and public services. The City does not currently experience a shortage of vacant commercial property. The significant supply of vacant commercial property along I-205 within Cordes Ranch, the Tracy Hills project, and elsewhere in the City suggests a supply for many years of new commercial development. A General Plan Amendment is not required because high density residential development (12.1 to 25.0 units per acre) is allowed under the project site's Commercial General Plan designation. The project would result in a residential density of 22 units/acre, consistent with the General Plan.

Two additional parcels (known as the Maibes property) are included in the Tracy Apartments project Specific Plan amendment application. The Maibes property totals 2.18 acres, contains a single-family home, trailer, and shop/storage buildings, and extends immediately west of the Tracy Apartments properties to the intersection of Grant Line Road and Byron Road. While no development is proposed at this time on the 2.18 acres, staff requested the inclusion of the Maibes property in the I-205 Corridor Specific Plan amendment action, changing the General Commercial designation to High Density Residential. For the purposes of this action, the Maibes property is assumed for ultimate development of multi-family residential housing at a density comparable to the Tracy Apartments project, resulting in approximately 48 units.

The owners of the Maibes property are not associated with the project applicant and did not request a Specific Plan amendment of their property from General Commercial to High Density Residential. Staff and the Maibes property representatives have discussed the current proposal during the past several months. The Maibes family

indicated they oppose the proposed Specific Plan amendment of their property from General Commercial to High Density Residential.

Staff requested the Maibes property be included in the Specific Plan amendment, even though the Tracy Apartments Project does not include the Maibes property, based on the following considerations: vehicle access, land use compatibility, and orderly growth of the City. The triangular-shaped Maibes property will be isolated from other properties with the Union Pacific rail line on its southwest side and Grant Line Road (future four-lane arterial) on the north. Upon development, the Maibes property may not be permitted direct access to Grant Line Road, or only right-in/right-out, due to the road's travel speed, proximity to other intersections, and curved configuration of Grant Line Road at this location in the future. The City's Transportation Master Plan shows that at build-out, Grant Line Road will not intersect with Byron Road, and Grant Line Road will, instead, curve north as it heads west from the Tracy Apartments site.

Due to the shape and size of the Maibes property, it is conceivable that it could be available only to a single user, such as a gas station, fast food restaurant, or auto sales. Such smaller, strip-type commercial development is inconsistent with Tracy's commercial development patterns of the past 25 years that have focused on larger, commercial centers along arterial streets where customers can exit the roadway and have access to multiple retailers before travelling back on to the public right-of-way. Small commercial sites are more appropriate for neighborhood shopping spots along smaller, collector streets.

The Maibes property was added to the Filios/Dobler annexation of 2011 because it was a logical extension for connection and integrated development with the larger, adjacent (now proposed Tracy Apartments) site. If the Specific Plan designation of the 20-acre Tracy Apartments site is amended from General Commercial to High Density Residential, staff believed the designation of the Maibes property should be amended to help ensure compatible, adjoining land uses; coordinated access and utilities; and appropriate land use on this otherwise isolated parcel, too small to create a meaningful commercial center on its own.

City parking standards require 1.5 off-street parking spaces per one-bedroom unit, 2.0 spaces per unit with two or more bedrooms, and 1.0 guest space for every five units. The 441-unit project would require 885 off-street parking spaces under City parking standard. The project, by contrast, proposes a total of 796 off-street parking spaces – 89 (or 10%) fewer spaces than is required by City parking standards.

The number of off-street parking spaces required for multi-family projects by the City of Tracy is higher than many other jurisdictions. Recognizing this, Council adopted an ordinance in 2012, consistent with City General Plan and Sustainability Action Plan policies, providing for a reduction of up to 20% of a project's required parking when a parking survey or study demonstrates that the number of spaces otherwise required will not be necessary to mitigate off-street parking demand. This Code provision allows the City to consider reductions to the number of required off-street parking spaces on a case-by-case basis.

A parking survey demonstrated that 796 off-street parking spaces (1.8 parking spaces per dwelling unit) for this project will adequately mitigate the on-site parking demand. Each of the 441 apartment units would be assigned a carport space, with

another 289 surface spaces unassigned and 102 garage spaces available for rent to Project residents.

The parking space reduction requested is 10% of the total number of spaces otherwise required. During the past two years, Council approved parking space reductions for the 301-unit Aspire Apartment project (14% reduction) and the 60-unit MacDonald Apartment project (15.4% reduction). Neither of these projects has yet been constructed.

The Project site is located within the Tracy Unified School District related to K through 12<sup>th</sup> grade education. School-aged children who reside within the project would be in the attendance boundary areas for Melville S. Jacobsen Elementary School, Monte Vista Middle School, and West High School.

Recommended Condition of Approval Number B.32 references the requirement for school fee payment by the project. The City received correspondence from Tracy Unified School District dated August 14, 2014, indicating a mitigation agreement has been executed with the developer and the District has no objection to the project.

An Addendum was prepared for the proposed Project in accordance with the California Environmental Quality Act (CEQA) and the CEQA Guidelines. The Addendum is to the previously certified Environmental Impact Report (EIR) (State Clearinghouse Number 2010072043) for the Filios/Dobler Annexation and Development Project, approved by the City in 2011. The City of Tracy is the lead agency for the environmental review of the proposed project modifications.

The proposed changes to the Filios/Dobler Annexation and Development EIR, in evaluating the proposed Tracy Apartments and Maibes property, do not meet the criteria for preparing a subsequent EIR or negative declaration. The criteria includes evaluation of whether there has been any substantial change proposed in the project not evaluated in the previous EIR which will require new environmental analysis due to potential for significant new environmental impacts; if there are significant changes in circumstances under which the project will be built that could not have been evaluated at the time the previous EIR was prepared; and if new information has become available that was not known at the time of the previous EIR was prepared. With the Tracy Apartments and Maibes property project, none of the above criteria are met, and therefore an Addendum to the previously certified Filios/Dobler EIR is the appropriate CEQA document.

On August 27, 2014, the Planning Commission conducted a public hearing to review the project. The Planning Commission expressed interest in improving the appearance of the proposed buildings from Grant Line Road. Six buildings face directly toward Grant Line Road. One recommended condition of approval from the Planning Commission (Number B.37) would require the developer to add architectural embellishments to the building elevations in view from Grant Line Road.

There are two additions proposed by the developer in response to that recommended condition of approval following the August 27, 2014, Planning Commission meeting: (1) create a second and third floor pop out on all six of the building elevations facing Grant Line Road, with extended roof overhang and cement board siding, trim, and support brackets similar to the adjacent portion of the building; and (2) provide a low plaster wall with iron fencing above, articulated with decorative stone pilasters similar to those in

front of the clubhouse. The decorative stone pilasters will also be incorporated into the metal fencing along the entry drive and the fencing already proposed along the project Grant Line Road frontage.

Gary Dobler, owner of approximately 20 acres adjacent to the east of the proposed apartments, also addressed the Commission. Mr. Dobler, whose property is designated General Commercial, requested the City require the developer to build a taller, masonry wall (eight feet to ten feet, instead of six feet, as proposed) along the property line separating the proposed apartment project from Mr. Dobler's property, to help mitigate impacts such as noise and security issues. The Planning Commission concluded that a six-foot tall wall, as proposed, would be appropriate.

Rebecca Maibes, owner of the approximately 2.18-acre Maibes property, west of the proposed apartment project, addressed the Planning Commission and submitted correspondence summarizing their request. Ms. Maibes asked that her property not be included in the Specific Plan amendment, as recommended by staff, but instead allow her property to remain General Commercial. Ms. Maibes' request is based on her concern that the High Density Residential designation would reduce the potential market value of their property.

Staff recommended that the City Council: 1) Approve the Addendum to the Filios/Dobler EIR in support of the proposed Project, 2) Approve the Amendment to the I-205 Corridor Specific Plan, changing the Tracy Apartments and Maibes properties land use designations from General Commercial to High Density Residential; 3) Approve the proposed parking reduction, determining that 1.8 off-street parking spaces per unit are sufficient to mitigate parking demands of the Project; and 4) Approve a Planned Unit Development (PUD) Preliminary and Final Development Plan for a 441-unit multi-family apartment project. The Planning Commission furthermore recommended excluding the Maibes property from the Specific Plan Amendment.

Council Member Rickman asked if the Maibes property was not changed to High Density Residential, and a residential use is requested, could the request can be brought back to Council for consideration at that time. Mr. Bell responded yes.

Council Member Young referred to a letter received from Mr. Dobler, regarding the 10 foot wall request, and asked staff if the 10 foot wall could be considered. Mr. Bell responded a concern expressed by Mr. Dobler was that people may want to jump over the 6 foot wall. Mr. Bell added a taller wall is required when there is activity from a commercial site. In this case there is no design of commercial site proposed at this time. When commercial development is proposed, staff would consider other mitigation to deal with any problems at that time.

Rebecca Maibes, property owner of 3610 and 3644 West Grant Line Road, stated the Maibes family did not oppose the apartment complex, but did not want to participate with the rezoning of their property as it will reduce value. Ms. Maibes added the Maibes family was not listed as applicants on the annexation application or resulting change from San Joaquin County to City of Tracy in 2011, but chose to include the property. Ms. Maibes could not foresee a developer wanting to build a very small 22 unit maximum complex next to a three story 441 apartment complex. Ms. Maibes stated the Planning Commission recommendation to exclude the Maibes property from the specific plan amendment should not be disregarded.



Gary Dobler stated he had requested a 10 foot masonry wall for safety reasons as a 6 foot wall is easier to jump. Mr. Dobler added the Dobler/Filios EIR was a 43 acre commercial center. Mr. Dobler further stated the applicant is requesting the change to apartments and should put up that wall.

Tim Silva addressed Council stating he was tired of seeing the city walled off. Mr. Silva stated he did not like walled off areas because the beautiful subdivisions cannot be seen. Mr. Silva further stated high walls are less security as burglars cannot be seen.

Council Member Rickman asked why staff is recommending changing the Maibes property from General Commercial to High Density. Mr. Bell responded the recommendation was based on 3 concerns: 1) Access to the Maibes property: The property is relatively small and the location in future curb of Grant Line Road compromises the accessibility. The Master Plan shows Grant Line Road turning north with the current Byron Road and Grant Line Road intersection gone. The connection would disappear leaving Grant Line Road a four lane high speed arterial with limited curb cuts and likely no median break at the Maibes property. Access at high speed curb will be less convenient for customers, deliveries, employees etc. to a small commercial parcel. 2) Land use compatibility: Staff asked that the Maibes property be included in the proposal and asked the developer of the apartment project to produce an exhibit to show how the Maibes property could be developed with multi-family development. An exhibit was prepared that showed the Maibes property would get access with a shared driveway at Grant Line Road with the SR95 parcel and also get storm drainage access onto Grant Line Road, water connection directly through this multi-family project and sewer. 3) Reasonable orderly growth of the Grant Line Road urban core: Over the last 25-30 years, Tracy has not developed small lot commercial strip type centers along arterial streets. Those are limited to the neighborhoods serving commercial areas off of collector streets. Instead the commercial centers off of arterial streets are usually minimum 5-20 acres. Typically those larger commercial centers on arterials allow the customers to exit the right of way and visit one or more establishments and get back on the public right of way. That is how the City organizes the commercial land uses along arterial, but not with single small isolated commercial, but with larger multi-tenant sites.

Council Member Rickman asked what would happen if the Maibes property was changed to High Density Residential and there are no takers, but in a years' time a commercial entity wanted to build. Mr. Bell responded there are ways to develop the Maibes property in the future with no residential uses whether retail, consumer, or business services on the property.

Council Member Rickman asked the applicant if they had any interest in the property whether it was High Density Residential or General Commercial. The applicant confirmed they had no interest. Council Member Rickman asked staff if the City was were causing the landowner to possibly not be able to get that property off their hands. Mr. Bell responded the residential use on the property is considered non-conforming and can continue indefinitely with that zoning. The urban development will change the residential value of that property by what happens around it.

Council Member Rickman asked if there has been any interest in residential for the Maibes property. Mr. Bell responded no. Council Member Rickman asked about commercial interest. Mr. Bell stated he was not aware of any commercial interest. Council Member Rickman asked for confirmation that there is a possibility it could be

used for commercial in the future. Mr. Bell responded if no changes are made at this time, yes. Any zoning changes would come back to Council in future.

Council Member Manne stated regardless of what the City believed is right for the property; the Maibes family owns the property and chooses not to be part of the application. Council Member Manne stated the project is well done and it looks like it will be a beautiful community. Council Member Manne did not see a need for an eight or ten foot wall. Council Member Manne stated he did not have a problem with the project but is in favor of excluding the Maibes property from the application.

Council Member Rickman stated the Maibes property should be left alone. Council Member Rickman added the project is very pedestrian and bicycle friendly and looks like a great project.

Council Member Young stated the property belongs to the Maibes family and they should have the option. Council Member Young asked what would be affected in the area if the Maibes property is not included. Mr. Bell responded the property directly across from north Grant Line Road is outside city limits. Approximately 140 acres of agricultural land outside city limits is designated commercial for the first 1000 feet or so west of Americas Tire store and then the zoning varies from there. It becomes an urban reserve area which could have a mixture of residential and commercial along the Grant Line Road frontage in the future. The vision is established through the General Plan. The General Plan designation for the Maibes property is commercial. The City's General Plan designation does allow multi-family at a density of 12-25 units per acre in that commercial land use designation, so there could be multi-family even with a commercial designation there. The Maibes property is just over two acres and would not have a big effect on the whole Grant Line Road corridor.

Council Member Young stated the Maibes property can be excluded. The overall project will bring more life to that side of Tracy.

Mayor Pro Tem Maciel stated land use decisions should start with the landowners, and added he was an advocate for excluding the Maibes property. In regards to the six foot wall, Mayor Pro Tem Maciel stated the barriers should be minimized in order to draw people. Mayor Pro Tem Maciel further stated the project is a great asset.

Mayor Ives stated he loved the mixed use aspect of the project. Mayor Ives agreed the land use for the Maibes property should be up to property owner, and if the property owner wants to change designation in the future, they will have to return to Council for approval. Mayor Ives stated the Maibes property should remain general commercial.

Mayor Ives asked for confirmation that the Resolution includes the Maibes property to remain as General Commercial designation. Mr. Bell responded that was correct.

It was moved by Mayor Pro Tem Maciel and seconded by Council Member Rickman to adopt Resolution 2014-172 approving an amendment to the I-205 Corridor Specific Plan (SPA14-0001), approving a Planned Unit Development Preliminary and Final Development Plan (PUD 14-0011), approving an off-street parking reduction, and approving an addendum to the Filios/Dobler annexation and development project Environmental Impact Report for the Tracy Apartments at Grant Line Road. Voice vote found all in favor; passed and so ordered.

4. ADOPT A RESOLUTION AUTHORIZING AMENDMENT NO. 2 TO THE PROFESSIONAL SERVICES AGREEMENT AND SOFTWARE LICENSE AGREEMENT WITH SPILLMAN TECHNOLOGIES, INC. FOR THE COMPUTER AIDED DISPATCH / RECORDS MANAGEMENT SYSTEM TO DISCONTINUE FURTHER WORK AND OBTAIN A PARTIAL REFUND FOR COMPLETED WORK AND AUTHORIZE THE MAYOR TO EXECUTE THE AMENDMENT – Troy Brown, City Manager, requested item be pulled and brought back to Council at a later date.
5. DISCUSS AND PROVIDE DIRECTION ON A CITY COUNCIL POLICY FOR FILLING CITY COUNCIL VACANCIES AND VACANCIES OCCURRING IN THE OFFICE OF MAYOR – Dan Sodergren, City Attorney, presented the staff report and a Powerpoint Presentation. The process for filling City Council vacancies (other than for an elective Mayor) is set forth in Government Code section 36512(b),<sup>1</sup> which provides that:

If a vacancy occurs in an elective office provided for in this chapter, the council shall, within 60 days from the commencement of the vacancy, either fill the vacancy by appointment or call a special election to fill the vacancy. The special election shall be held on the next regularly established election date not less than 114 days from the call of the special election. A person appointed or elected to fill a vacancy holds office for the unexpired term of the former incumbent.

A similar process is contained in the Government Code for vacancies occurring in the office of Mayor. State law does not prescribe any procedure for selection of appointees. Therefore, the Council may choose any selection method it desires.

Policy Options: On May 6, 2014, Council asked staff to draft a policy that provides for an open application process and that is loosely based on the City of Santa Rosa's policy for filling Council vacancies. The following various options may be included in the policy related to: applications; interview questions for applicants; City Council interview procedure; and voting procedure. It should be noted that these are only some of the available options. Council may want to include other options. Staff is requesting that Council provide direction on these options.

- A. Applications - The City of Santa Rosa policy requires applicants to file:
  - An application stating the applicant's background, qualifications and why he or she wishes to be appointed;
  - A nomination form containing valid signatures of at least 20 registered voters of the City; and
  - A completed Statement of Economic Interest (Form 700) provided by the Fair Political Practices Commission.

Other options for the application process include:

1. Requiring an essay not to exceed a certain number of words on why the applicant is the best person for the appointment; and
2. Establishing an application form with standard preliminary questions agreed upon by Council.

B. Interview Questions for Applicants - The City of Santa Rosa's policy provides in relevant part as follows:

Questions for or concerning applicants may be submitted in writing by the public to the City Clerk. Following the deadline set by the Council for the submittal of questions, all such questions shall be forwarded to Council members, who may use them in the applicant interviews.

The Council, by motion, may choose to present questions in advance of the interviews to the applicants and may choose to require applicants to either answer all such questions at the interviews or provide written responses to all such questions prior to the interviews. Proposed advance questions may be suggested by individual Council members or may be drafted by an ad hoc committee of the Council appointed by the Mayor for that purpose.

Other options for establishing questions include:

1. Automatically delegating the drafting of questions to an ad hoc committee of the Council (with or without an opportunity for initial public input) with final approval by the Council as a whole; or
2. Having the Council as a whole draft the questions.

C. Council Interview Procedure - The City of Santa Rosa's policy provides in relevant part as follows:

Applicant interviews shall be conducted in a public meeting, which may be televised and recorded. At the time and date set for applicant interviews, each applicant shall be interviewed separately and shall be given the opportunity to make a brief statement concerning his or her qualifications and to answer any question previously submitted to the applicant by the Council. Thereafter, each Council member may question each applicant on any subject he or she feels is relevant to that applicant's qualifications to sit on the Council. Based on the time available and the number of candidates, the Council, by majority vote, may require a time limit on interviews, limit the number of questions of, and receive answers from each applicant.

Other things to consider in the interviewing process include:

1. Should the order of interviews be based on a random drawing, alphabetical order, or some other method?

2. Should applicants have an opportunity for an opening and/or closing statement and, if so, should there be time limits?
3. Should the Council ask set interview questions and how should such questions be established (e.g., ad hoc Council subcommittee)?
4. Should Council establish an overall time limit for each question or the interview as a whole?
5. Should follow-up questions be allowed and, if so, should there be time limits?
6. Should the Mayor ask all of the questions or should the Council divide the questions among all Council Members?

D. Voting Procedure - The City of Santa Rosa's policy provides that the person to fill the vacancy be selected from all applicants by the following process of elimination:

- Policy based on City of Santa Rosa's policy, with amendments, to be brought back for adoption on October 21, 2014.
- Each Council member shall vote for three applicants. In the event there are more than ten applicants, the Council may elect to vote for four applicants in the first round and then proceed as set forth below.
- Those applicants receiving one vote or less shall be eliminated.
- Subsequent votes shall be taken with each Council member voting for one less applicant than voted for in the previous round until each Council member exercises one vote. Only applicants not eliminated may be voted upon.
- The applicant who receives four or more votes in the final round of voting shall be appointed to fill the vacancy.

Another option would be to allow any Council Member to nominate an applicant to fill the position, with a vote taken on each nomination in the order in which the nomination was made, until such time as a nominee receives three or more votes.

Staff recommended that Council provide direction on a Council policy for filling City Council vacancies and vacancies occurring in the office of Mayor, including direction on the options discussed above.

There was no one from the public wishing to address Council regarding this item.

Mayor Pro Tem Maciel stated a vacancy can occur for any reason. The options are for Council to appoint or to hold a special election, but there are restrictions as to when and how a special election can be held. Mayor Pro Tem asked staff for clarification regarding the time frame for holding a special election. Mr. Sodergren responded under State law the City can adopt an ordinance automatically requiring a special election, but Council has chosen not to do that for Tracy. Any time there is a vacancy, staff would bring the decision to the Council first whether to appoint or call a special election. Mr. Sodergren added this policy would only apply should Council chose to appoint rather than call a special election

Mayor Pro Tem Maciel asked if there was a requirement that the special election needed to be held in conjunction with a scheduled election, or could a special election be held within 60 days of a vacancy occurring. Mr. Sodergren responded a special election needs to be held on the next regularly established election date not less than 114 days from the call of a special election. The City of Tracy may not be having an election, but it

could be a regularly scheduled election date in the Elections Code so the special election would have to be at that election date.

Mayor Pro Tem Maciel asked if that meant that the City would not have to wait until the following June to hold a special election. Mr. Sodergren responded if Council wanted to call a special election staff would know with certainty what election date as prescribed by the Elections Code.

Mayor Pro Tem Maciel stated the first decision would be whether to call a special election, and if not, proceed to an established procedure.

Mayor Ives asked Council how they felt about Santa Rosa's appointment procedure.

Mr. Sodergren directed Council to a sample policy attached to the staff report, which is based on Santa Rosa's procedure for filling City Council vacancies and vacancies occurring in the office of the Mayor.

Mayor Ives directed Council to the application section on the sample policy regarding requiring a nomination form containing valid signatures of at least 20 registered voters of the City of Tracy.

Mayor Pro Tem Maciel stated the 20 signatures from registered voters is a requirement for a candidate who seeks to be on the ballot, and he did not see a problem with requiring signatures to support an application.

Council Member Young asked if a candidate could use the same signatures they had received when running for Council. Council Member Young supported the signature process.

Mayor Pro Tem Maciel stated the application should include some standard questions that have been determined by Council. Mayor Pro Tem Maciel liked the idea of the public having the ability to have input related to questions. Mayor Pro Tem Maciel suggested an adhoc committee be appointed to review questions submitted by the public and Council members, and submit a rendering for final approval by Council.

Mr. Sodergren stated the policy contemplates when a vacancy occurs, a staff report will be brought to Council to determine the time frames, establish a subcommittees if Council chooses, and refine some of the details. The policy provides the flexibility to further define when a vacancy actually occurs.

Mayor Ives directed Council to the Interview Section of the sample policy.

Council Member Rickman asked where the order of candidate interviews is addressed in the policy. Mr. Sodergren suggested a random drawing. Mayor Ives suggested including language in the policy stating applicant will be interviewed based on a random drawing.

Mayor Ives directed Council to review the Voting procedure section.

Mayor Pro Tem Maciel supported the voting procedure.

Mayor Ives referred to the Appointment by the City Council section. The procedures states if a majority of the Council cannot agree on the appointment of one of the applicants, even after the voting procedure, the Council may adopt such other procedures to fill the vacancy as it deems appropriate. Mr. Sodergren responded in that case we would revert back to not having a policy.

Mayor Pro Tem Maciel asked about the benefit of having a provision that nullifies the policy. Mr. Sodergren responded it is a reminder to Council that something has to be done within 60 days or it is automatically set for special election.

Mayor Pro Tem Maciel referred back to the interview questions section and asked if the first applicant was asked a not scripted question, would the subsequent applicants be asked that same question. Mr. Sodergren responded the policy is open ended the way it is written now.

Troy Brown, City Manager, stated Council would ask each candidate the standard questions but if they see something unique in the candidate or their qualifications, then Council has the latitude to probe the candidate.

Council Member Young referred to the voting procedure section and asked if there were 10 applicants, would she need to vote for a third person. Mayor Ives responded the policy states each Council member should vote for three applicants.

Council Member Young asked how a two-two vote would be handled and if there would be a special election by default.

Mayor Ives responded Section H (Appointment by the City Council) is an off ramp for the Council in case of stale mate. Council could chose to hold a special election or a Council Member could vote. Mayor Ives added if there is a two-two vote, Council may need to call a special election.

Council Member Rickman asked about the interview time limits and the amount of follow up questions per Council member. Mayor Ives responded that has to be determined when getting into the process.

Mayor Pro Tem Maciel suggested there should be closing or opening statements but not both. Mayor Pro Tem Maciel added he did not want to put a time limit on applicants answering Council questions as it would limit the ability to assess an applicant.

Mr. Sodergren stated the voting procedure language could be changed to include each Council Member shall vote for up to three applicants. If there is only two, the Council can vote for two.

Mayor Pro Tem Maciel stated he supported the change to include each Council Member shall vote for up to three applicants.

Mr. Brown stated the purpose of the voting procedure is to try and get the vote down to a forced ranking system to minimize the possibility of a stale mate. Mr. Brown added if it is the consensus of the Council, staff will make that change to the voting procedures in the policy to include Council Members shall vote for up to three applicants

Mayor Pro Tem Maciel asked in the event there were 50 applicants, would there be a process of rendering that to the 10 best applicants. Mr. Brown responded an option to deal with that would be to increase the number of votes each Council Member would be allotted. Mr. Sodergren added staff will refine the voting procedure and make sure it works properly.

Council Member Rickman stated it is important to have a process in place, in order to avoid running into the mistakes of the past.

Council Member Young asked if the voting procedure would be a silent ballot. Mr. Sodergren responded no, there cannot be silent ballots under the Brown Act

Mayor Ives stated this is a draft policy that will come back to Council.

6. CONSIDER COUNCIL GENERAL FUND RESERVE POLICY – Jenny Haruyama, Administrative Services Director, provided the staff report and powerpoint presentation. The Government Finance Officers' Association (GFOA) recommends that governments establish a formal policy on the level of unrestricted fund balance (City reserves) that should be maintained in the General Fund. The purpose of a reserve is to mitigate the effect of unanticipated situations including natural disasters and severe unforeseen events. Reserves also provide the City with stability when the economy fluctuates, providing time to develop a transition plan and make organizational and service changes in response to the City's financial situation.

The City of Tracy has a General Fund Reserve policy that requires a reserve level of 20% of General Fund expenditures, including recurring transfers out. The City has only one designated reserve - the Reserve for Economic Uncertainty. This reserve was established to bridge budget shortfalls due to changes in the economy. The City's policy also automatically allocates year-end excess revenue to the Reserve for Economic Uncertainty.

As of June 30, 2013, the City's total General Fund balance is \$28.9 million; of that amount, approximately \$27.5 million is unassigned, and includes the City's Reserve for Economic Uncertainty (\$9.9 million). The unassigned fund balance of \$27.5 million represents 55% of total General Fund expenditures for FY 2013/14. The projected FY 2014/15 General Fund unassigned fund balance is estimated to be \$33.6 million. This amount does not include anticipated year-end excess revenue and any authorized use of fund balance in the current year.

For purposes of long-range fiscal planning and continued fiscal health, it is recommended that the Council consider modifying its current reserve policy by establishing three new General Fund reserves designations that would replace the City's existing reserve structure.

The GFOA recommends that governments adopt a formal policy on the level of unrestricted fund balance (City reserves) that should be maintained in the General Fund. The GFOA also recommends the establishment of specific reserve designations to support a City's long-term fiscal sustainability efforts. As a result, the City has identified three new designations to ensure that resources are available to address future financial needs, including unforeseen events and/or disasters, fluctuations in



economic cycles, and revenue loss due to the sunset of Measure E. The designations are discussed in further detail below and reflected in the General Fund Reserve policy.

**General Fund Contingency Reserve** - The Contingency Reserve funds help mitigate the effects of unanticipated situations such as natural disasters and severe, unforeseen events. The Contingency Reserve is to be established with a targeted goal of 20% of the General Fund's adopted annual budget for expenditures, including recurring transfers out.

As part of the budget adoption process, the City Manager would evaluate the City's financial condition and make a recommendation as to whether a contribution should be made to the Contingency Reserve, or if reserve funds should be used to address a particular need. Use of the Contingency Reserve must be approved by the Council and repaid over a period to be determined by the Council at the time of usage approval, with a target repayment period of no more than three years.

**General Fund Economic/Budget Stability Reserve** - The Economic/Budget Stability Reserve is intended to offset revenue/expenditure uncertainty while stabilizing service levels through economic cycles. The long-term use of this reserve is determined by estimating the level of financial risk associated with the following three areas of uncertainty:

1. **Revenue risks.** Economically sensitive revenues that fall short of budget projections could cause deficits. Transitional funding may be necessary to bridge the impact of reductions in major revenues due to local, regional, state, and/or national economic changes.
2. **State budget risks.** In the recent past, the State has implemented budget solutions that legislatively reallocated intergovernmental revenues from local jurisdictions to the State (in the absence of guarantees or constitutional protection of these revenues). These reallocations have included property taxes, sales taxes, gas taxes, grants, and reimbursements.
3. **Uncontrollable costs.** The City budget includes several ongoing, uncontrollable costs, including employer pension contributions, healthcare premiums, and fuel/utility expenses that are beyond the City's control. Further changes in PERS rates due to investment performance and actuarial assumptions, and/or healthcare may result in the need for supplemental funding.

The Economic/Budget Stability Reserve is to be established with a targeted goal of 10% of the General Fund's adopted annual budget for expenditures and recurring transfers out. The City Manager will assess the City's financial condition and recommend whether a contribution should be made to the Economic/Budget Stability Reserve, or if reserve funds should be used to stabilize the budget. This action is done as part of the annual budget adoption; however, these actions can be completed at any time the City Manager deems necessary.

Use of the Economic/Budget Stability Reserve must be approved by the Council and repaid over a period to be determined by the Council at the time of usage approval, with a target repayment period of no more than three years.

**General Fund “Measure E” Mitigation Reserve** - The “Measure E” Mitigation Reserve is to be used as bridge funding upon the sunset of the Measure E sales tax in Fiscal Year 2016/2017. This temporary reserve would be used over a multi-year period to mitigate the loss of revenue from the half cent sales tax and allow the City time to transition to the reduced revenue level.

The “Measure E” Mitigation Reserve is to be established with a targeted goal of \$7 million as this is estimated to be the peak revenue prior to the measure’s expiration in March 2016. As part of the annual budget adoption process, the City Manager would recommend whether a contribution should be made to the “Measure E” Mitigation Reserve, or if reserve funds should be used to supplant the budget.

All uses of the “Measure E” Mitigation Reserve must be approved by the Council. The “Measure E” Mitigation Reserve is a one-time reserve; if the reserve will no longer be used for the purposes stated above, the unused funds should be returned to the General Fund and reserve closed.

**Use and Replenishment of Reserves** - Use of any reserve must be approved by the Council. Use of any reserve will require repayment to be determined by the Council at the time of usage approval, with a recommended target repayment period of no more than three years. The City’s current General Fund Reserve policy does not have a replenishment requirement.

**Year-End Excess Revenue** - Under the City’s current policy, reported year-end excess revenue which results in General Fund reserves exceeding the required minimum threshold level (20%) is automatically allocated to the Reserve for Economic Uncertainty. Year-end excess revenue under the proposed reserves structure would remain in the City’s fund balance. As part of the annual budget adoption process, the City Manager would recommend whether the excess funds could be allocated to other reserves, or used as one-time funding with consideration given to economic development and/or capital projects.

Staff recommended that Council adopt a resolution approving a General Fund Reserve policy.

Mayor Pro Tem Maciel asked staff if the \$7 million is adequate for the “Measure E” Mitigation Reserve. Ms. Haruyama responded it is very difficult to project. Assuming there are no changes in expenditures, the \$7 million probably will last three fiscal years based on the current forecast. However, staff will be looking for any feasible organizational restructuring consolidation opportunities which may help offset it and potentially draw out the length of time that we have to use that reserve. Staff needs to take a look at those opportunities in order to present Council with multiple options for considerations before having to go to those reserves.

Mayor Pro Tem Maciel stated his concern with the proposal was whether the \$7 million would be an adequate amount for the Measure E Reserve. Ms. Haruyama responded staff will bring the Comprehensive Annual Financial Report (CAFR) to Council in December, which will show projected year end excess, and provide recommendations to Council for what do with that excess. The excess could build up the temporary Measure E Reserve if Council feel the \$7 million is not enough. Ms. Haruyama stated the minimum recommendation is 20% for the Contingency and 10% for the stability or

Council could direct staff to add any excess revenue to the Measure E and the City Manager could make that recommendation as part of the budget process.

Jim Howell addressed Council asking at what point money would get pulled from the reserves to build up the minimum General Fund. Ms. Haruyama responded that would be at the City Manager's discretion to determine what situation would drive that. Staff would be making proposed reductions to Council and couple that with potentially drawing down on the reserves. That will be done per each individual budget development process because it is hard to predict future expenses and revenue scenarios. There is an opportunity to see some significant increases in property tax and that could curtail how much you need to use from, for instance, the Measure E Mitigation Reserve.

Jim Howell stated the discussion is about a policy and not action plan. Ms. Haruyama responded the policy is to drive the reserves structure. The policy is taking the existing structure and allocating it into specific targeted reserve buckets of dollars.

Mr. Brown responded tonight's action is about establishing the three buckets which is a very important step. There are agencies that are looking at our bond rating and policy of how we identify reserves. During the budget process staff will be revisiting this policy. It is important to know the reserves are there for a specific purpose and need.

Michel Bazinet asked Ms. Haruyama if the three reserves are mostly funded right now. Mr. Bazinet asked if \$40 million is enough to fund the three reserves at this time. Ms. Haruyama responded no, it would be slightly more because the estimated year end projections for the current fiscal year are not included. Under the model of what staff is presenting it would be fully funded and could be beyond that if we have excess revenue

Mr. Bazinet stated as Chair of Measure E Oversight Committee, one of the recommendations the committee had made was to use surplus funds to go into a special capital fund to reduce operational expenses. Mr. Bazinet asked about the impact of funding reserves as opposed to funding capital funds and whether this will be discretionary. Ms. Haruyama responded there is no funding source for General Fund Capital Projects. Council would consider through the budget process in its General Fund check book to allocate a transfer to the capital fund for specific projects. If there was available money in the fund balance after bills are paid, Council could consider for a onetime special use, but that has to be done very strategically because once it has gone it has gone.

Mayor Ives stated GFOA recommends 20% as a reasonable number for municipalities to have in total reserves. In this action Council is making 12% available for forecastable circumstances when Measure E goes away. The policy level for the City of Tracy is 30% not 20%, as opposed to the current condition which is 42%. Ms. Haruyama responded that was correct.

Mr. Brown stated the City will go through the budget process for the next several years to minimize the use of the Measure E and right size the organizational expenses with the revenue so the City is living within its needs.

Ms. Haruyama stated it is in the City's best interests to try not to use reserves. Ms. Haruyama added it is important to look at organizational wide and service consolidation opportunities. Staff will bring those options back to Council.

Council Member Manne stated he had some hesitation about labeling the different funds. Council Member Manne understood that the funds are labeled and given different definitions to show the auditors where the dollars are. Council Member Manne added it does not mean that this policy addresses how and when Council spends those dollars and he would never agree to spend it.

Mayor Ives stated the reserves are labeled for transparency to make sure the public knows why pots of money are being saved.

Council Member Young asked if the City had to spend funds on legal matters, would the funds come out of the Contingency Emergency Reserve. Ms. Haruyama responded that was correct. If an alternative source was not found to fund that particular emergency, then staff would present Council with options and the Emergency Contingency Reserve would be one of those options. However, staff will do their best to avoid dipping into that fund, but that is what it is there for.

It was moved by Mayor Pro Tem Maciel and seconded by Council Member Rickman to adopt Resolution 2014-173, approving a General Fund Reserve Policy. Voice vote found all in favor; passed and so ordered.

7. ITEMS FROM THE AUDIENCE – Jim Howell, suggested Council add the possibility of having only one candidate to the voting procedures.
8. COUNCIL ITEMS – Council Member Rickman reminded everyone that October was Breast Cancer Awareness month and added the Relay for Life for Tracy is putting a team together for 2015.

Council Member Rickman reminded everyone about the 19<sup>th</sup> Annual Crosstown football on Friday, November 7, 2014.

Council Member Young stated the ribbon cutting for the basketball court at El Pescadero Park was held today and added it was a joy to see the basketball court come to fruition.

9. ADJOURNMENT – It was moved by Council Member Manne and seconded by Council Member Rickman to adjourn. Voice vote found all in favor; passed and so ordered. Time: 9:34 p.m.

The above agenda was posted at the Tracy City Hall on October 1, 2014. The above are summary minutes. A recording is available at the office of the City Clerk.

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Mayor

ATTEST:

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City Clerk